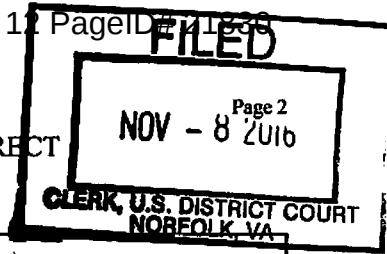


AO 243 (Rev. 01/15)

**MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT
SENTENCE BY A PERSON IN FEDERAL CUSTODY**



United States District Court		District	Eastern District of Virginia
Name (under which you were convicted): Stephen G. Fields		Docket or Case No.: 2:12cr105	
Place of Confinement: FCI Fort Dix, New Jersey		Prisoner No.: 80657-083	
UNITED STATES OF AMERICA		Movant (include name under which convicted) V. Stephen G. Fields	

MOTION

1. (a) Name and location of court which entered the judgment of conviction you are challenging:

United States District Court for the Eastern District of Virginia at Norfolk

(b) Criminal docket or case number (if you know): 13-4711 (L)

2. (a) Date of the judgment of conviction (if you know): 5/24/2013

(b) Date of sentencing: 9/16/2013

3. Length of sentence: 204 months

4. Nature of crime (all counts):

Conspiracy to commit bank fraud 18 U.S.C. 3 1349; two counts of making false entry in a bank record 18 U.S.C. 3 1005; making a false statement to a financial institution 18 U.S.C. 3 1014; two counts of misapplication of bank funds 18 U.S.C. 3 656.

5. (a) What was your plea? (Check one)

(1) Not guilty ☒

(2) Guilty ☐

(3) Nolo contendere (no contest) ☐

(b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or what did you plead guilty to and what did you plead not guilty to?

N/A

6. If you went to trial, what kind of trial did you have? (Check one) Jury ☒ Judge only ☐

7. Did you testify at a pretrial hearing, trial, or post-trial hearing? Yes ☒ No ☐

8. Did you appeal from the judgment of conviction? Yes ☒ No ☐

9. If you did appeal, answer the following:

(a) Name of court: United States Court of Appeals for the Fourth Circuit(b) Docket or case number (if you know): 13-4711 (L)(c) Result: Conviction Affirmed(d) Date of result (if you know): 6/5/2015

(e) Citation to the case (if you know): _____

(f) Grounds raised:

- 1) Erroneous Exclusion of Defense Evidence as Hearsay
- 2) Erroneous Exclusion of Relevant Evidence
- 3) Erroneous Limitation on Impeachment of Menden and Hranowskyj
- 4) Erroneous Limitation of Fields Direct Testimony
- 5) Erroneous Admission of Expert Testimony

(g) Did you file a petition for certiorari in the United States Supreme Court?

Yes



No



If "Yes," answer the following:

(1) Docket or case number (if you know): 13-4711 (L)(2) Result: Conviction Affirmed(3) Date of result (if you know): 11/9/2015

(4) Citation to the case (if you know): _____

(5) Grounds raised:

- 1) The Court of Appeals imposed arbitrary and capricious page limits and thus violated the Defendant's Right to Due Process and Equal Protection on Appeal
- 2) The court should determine the Constitutionality of optimal limits on a defendant's direct testimony at trial.

10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications, concerning this judgment of conviction in any court?

Yes ☐ No ☒

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐No ☐

(7) Result: _____

(8) Date of result (if you know): _____

(b) If you filed any second motion, petition, or application, give the same information:

(1) Name of court: _____

(2) Docket of case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐No ☐

(7) Result: _____

(8) Date of result (if you know): _____

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First petition:

Yes ☐No ☐

(2) Second petition:

Yes ☐No ☐

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not: _____

-
12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: Actual Innocence

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Because I was separated from my legal papers one week before the due date of my motion 2255 by no fault of my own, I am putting the court on notice of my right to amend this motion under Federal Civil Rules of Procedure 15.

Count 1

Item 43

All the loans were current. The use of change in term(s) agreement would only be processed by the Loan Administration Department if the current interest due was paid. In essence, the loan was paying as agreed. The loan then matured, and the bank extended the maturity date of the loan. By reviewing a loan statement for the listed loans, it will show these interest payments were made prior to the processing of the change in term agreements and extending the loan maturity. The reason for extension of the maturity date was to provide the customer(s) time to sell the collateral pledges on the loan. The financial crisis created a significant slowdown in the Real Estate sector. Therefore, loans dependent on the sale of collateral had to be extended to allow additional time to market and sell the property. The loan write up will show that the request is to "extend the loan" with all other terms and conditions remaining the same. The bank's policy would not allow a loan to be extended for more than one year in order for bank personnel to review these loans on a yearly basis. This action was taken in an effort to protect the bank while working with the customer. Continued in Attachment 1.

(b) **Direct Appeal of Ground One:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐

No ☒

(2) If you did not raise this issue in your direct appeal, explain why:

Limit on length (in words) of my direct appeal by the United States Fourth circuit court of appeals.

(c) **Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐

No ☒

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐

No ☒

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐

No ☒

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐

No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

GROUND TWO: Miscarriage of Justice

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

The court allowed the government, during their cross-examination of Fields to go outside the subject matter of direct examination. This is opposite of what Federal Rules of Evidence 611(b) states. This occurred immediately after the judge ended my direct examination. This action was clearly prejudicial to me, the defendant. In contrast to the above, the court limited the cross-examination of government witnesses. Although these witnesses testified during the direct examination on the subject matter being questioned on cross-examination. The court abused its discretion by not adhering to Federal Rules of Evidence 611(b). The jury was well aware of the subject matter of their direct testimony.

The judge ended my direct examination despite the fact that my attorney repeatedly indicated that he was not finished. When my testimony was ended, my attorney immediately provided a proffer to the court to show the important facts that the jury was unable to hear in order to explain my defense (approximately 50% of the charges and transactions in the indictment.) I was not provided sufficient time for my occurrence testimony. When reviewing this issue for an "abuse of discretion", the courts simply look to see if the defendant would have offered any additional evidence of testimony to support the issue. My proffer adequately addressed this additional burden by providing important facts regarding my defense. Continued in Attachment 2.

(b) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why:

Limit on length (in words) of my direct appeal by the United states Fourth circuit court of appeals.

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐

No ☒

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐

No ☒

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐

No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

GROUND THREE: Due Process

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

The district court judge violated my constitutional right under due process when he cut-off my direct testimony; despite the fact my attorney repeatedly informed the court that he was not finished with his questions. The disputed facts of the violation of my due process rights is as follows:

My attorney stated that the first time he was warned to finish his direct examination of myself, the defendant, was at approximately 1:00 PM on the first full day of my testimony as the defendant. My counsel stated to the court he could not finish. As the afternoon went on, my attorney again informed the court that he could not finish his direct examination by the end of the day. Despite these repeated statements by my counsel, that he could not finish

the direct testimony, the judge ended the defendant's direct examination. This action by the court had a substantial prejudicial effect on the outcome of the trial, which violated my constitutional right of due process. A defendant's right to testify in his own defense and his right to be heard is rooted in the United States Constitution Due Process clause. Furthering this violation, the court did not allow my attorney any additional time to revise his questions. Thus, notice should have been given well in advance so the trial strategies could have been adequately revised. Continued in attachment 3.

(b) Direct Appeal of Ground Three:

- (1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐

No ☒

- (2) If you did not raise this issue in your direct appeal, explain why:

Limit on length (in words) of my direct appeal by the United states Fourth circuit court of appeals.

(c) Post-Conviction Proceedings:

- (1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐

No ☒

- (2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

-
- (3) Did you receive a hearing on your motion, petition, or application?

Yes ☐

No ☒

- (4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐

No ☒

- (5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐

No ☐

- (6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

GROUND FOUR: Rule 33 Motion

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

The district court judge had broad authority to grant a new trial based on the weight of the evidence. The jury acquitted a co-defendant, Hounslow, on all counts. This fact should have provided the judge sufficient grounds to rule an acquittal or at a minimum a new trial. As an example, Hounslow had 3 charges that were identical to 2 of my charges. The judge was aware that the same procedures were utilized by the bank. Hounslow and I also had the conspiracy for bank fraud as a common charge we faced. The district court judge should have weighed the evidence against me and how it relates to the verdict, which would have determined I am innocent. It appears that the credibility of the witnesses were not properly evaluated. In deciding a motion for a new trial, the district court judge is not constrained by the requirement that it views the evidence in the light most favorable to the government. Once the case was reviewed on its merits with convicted felons, who admitted to lying to a jury providing a majority of the testimony for the government, and the judge stopping my direct testimony, the judge should have acquitted me or at a minimum granted a new trial in the interest of justice. The judge also had reasonable doubt of my guilt. After I was sentenced the judge said, "it baffles this court why you were involved in this conspiracy."

Grounds 5 through 15 are included in Attachment 4.

(b) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why:

Limit on length (in words) of my direct appeal by the United states Fourth circuit court of appeals.

(c) **Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☒

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

-
13. Is there any ground in this motion that you have not previously presented in some federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

-
14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the you are challenging? Yes ☐ No ☒

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

15. Give the name and address, if known, of each attorney who represented you in the following stages of the you are challenging:

(a) At the preliminary hearing:

Solomon L. Wisenberg, Nelson Mullins Riley & Scarborough LLP, 1717 Pennsylvania Av, NW #500, DC 20006

(b) At the arraignment and plea:

Solomon L. Wisenberg, Nelson Mullins Riley & Scarborough LLP, 1717 Pennsylvania Av, NW #500, DC 20006

(c) At the trial:

Solomon L. Wisenberg, Nelson Mullins Riley & Scarborough LLP, 1717 Pennsylvania Av, NW #500, DC 20006

(d) At sentencing:

Solomon L. Wisenberg, Nelson Mullins Riley & Scarborough LLP, 1717 Pennsylvania Av, NW #500, DC 20006

(e) On appeal:

Eugene V. Gorokhov, Burnham & Gorokhov PLLC, 1424 K St. NW #500, Washington DC 20005

(f) In any post-conviction proceeding:

Eugene V. Gorokhov, Burnham & Gorokhov PLLC, 1424 K St. NW #500, Washington DC 20005

(g) On appeal from any ruling against you in a post-conviction proceeding:

N/A

16. Were you sentenced on more than one court of an indictment, or on more than one indictment, in the same court and at the same time? Yes ☐ No ☒

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☐ No ☒

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

(b) Give the date the other sentence was imposed: _____

(c) Give the length of the other sentence: _____

(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes ☐ No ☒

18. TIMELINESS OF MOTION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255 does not bar your motion.*

N/A

* The Antiterrorism and Effective Death Penalty Act of 1996 (“AEDPA”) as contained in 28 U.S.C. § 2255, paragraph 6, provides in part that:

A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of –

- (1) the date on which the judgment of conviction became final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.


Therefore, movant asks that the Court grant the relief to which he or she may be entitled.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Motion Under 28 U.S.C. § 2255 was placed in the prison mailing system on _____

(month, date, year).

Executed (signed) on 10-26-16 (date).



Signature of Movant (required)

* * * * *

Model Form for Use in 28 U.S.C. § 2255 Cases
Involving a Rule 9 Issue (Abrogated)
[The advisory committee is developing a new form that
makes extensive revisions to the existing form.]